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TO BE ELECTRONICALLY FILED

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

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 SIGNATURE BANK, :
 Plaintiff, :
 - against - : 08 Civ. 3893 (NRB)
 :
 AHAVA FOOD CORP., NORTH COUNTRY CHEESE :
 CORP., LEWIS COUNTY DAIRY CORP., ST. :
 LAWRENCE FOOD CORP. d/b/a PRIMO FOODS YONI :
 REALTY LLC, SWARTZ AND SONS QUALITY :
 DISTRIBUTORS, INC., MOISE BANAYAN, ANA :
 BANAYAN a/k/a CHANA BANAYAN, REBECCA :
 BANAYAN-LIEBERMAN, FARIBORZ BANAYAN :
 a/k/a AARON BANAYAN, RUBEN BEITYAKOV, ARI :
 KATZ, AHAVA OF CALIFORNIA LLC d/b/a AHAVA :
 NATIONAL FOOD DISTRIBUTORS and NORTH :
 COUNTRY MANUFACTURING, and JOHN DOES 1 :
 through 50, :
 :
 Defendants. :
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Plaintiff Signature Bank ("Plaintiff"), by its counsel, Herrick, Feinstein LLP, as and for its Answer to the Counterclaim (the "Counterclaim") of Ahava Food Corp., North Country Cheese Corp., Lewis County Dairy Corp., St. Lawrence Food Corp. d/b/a Primo Foods Yoni Realty LLC, Schwartz and Sons Quality Distributors, Inc., Moise Banayan, Ana Banayan

a/k/a Chana Banayan, Rebecca Banayan-Lieberman (collectively, the "Defendants"), hereby alleges as follows:

ANSWERING THE FIRST COUNTERCLAIM FOR BREACH OF CONTRACT

28. Plaintiff repeats and realleges each and every allegation contained in its Amended Verified Complaint as fully set forth herein and denies the validity of the affirmative defenses set forth by the defendants.

29. The allegations contained in paragraph "29" of the Counterclaim purport to refer to the loan and forbearance agreements, which are documents that speak for themselves. To the extent the allegations in Paragraph "29" are inconsistent with the loan and forbearance documents, those allegations are denied.

30. The allegations contained in paragraph "30" of the Counterclaim purport to state a legal conclusion for which no response is required. To the extent a response is required, the allegations are denied.

31. Denies the allegations contained in paragraph "31" of the Counterclaim.¹

39. Denies the allegations contained in paragraph "39" of the Counterclaim.

40. Denies the allegations contained in paragraph "40" of the Counterclaim.

FIRST AFFIRMATIVE DEFENSE

The Counterclaims fail to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

The Counterclaims are barred by the doctrine of unclean hands.

THIRD AFFIRMATIVE DEFENSE

Defendants did not suffer any damages by the alleged conduct set forth in the

¹ While it appears the Counterclaim is either misnumbered or incomplete, counsel for Defendants did not supplement the pleading when this was called to his attention.

Counterclaims.

FOURTH AFFIRMATIVE DEFENSE

Defendants failed to mitigate its damages to the extent such damages were suffered.

FIFTH AFFIRMATIVE DEFENSE

The Counterclaims are barred by the doctrine of waiver.

SIXTH AFFIRMATIVE DEFENSE

If it is determined that Defendants are entitled to any damages, such damages should be reduced by Plaintiff's rights of offset.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff has at all times acted in good faith and observed reasonable commercial standards.

EIGHTH AFFIRMATIVE DEFENSE

Defendants have suffered no damages as a result of the Plaintiffs' actions.

NINTH AFFIRMATIVE DEFENSE

The Plaintiff has acted in good faith, without wrongful intent and without intent to deceive, while Defendants have continuously acted in bad faith, with wrongful intent and with intent to deceive.

TENTH AFFIRMATIVE DEFENSE

Defendants' claims are barred by the doctrine of economic justification..

ELEVENTH AFFIRMATIVE DEFENSE

Any property sought to be recovered by Plaintiff, was legally recoverable by Plaintiff

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff reserves the right to assert additional defenses if and to the extent that such defenses are applicable

WHEREFORE, Plaintiff respectfully prays as follows:

- (a) That judgment be entered in favor of Plaintiff and against Defendants on the claims asserted in the Amended Complaint;
- (b) That Defendants recover nothing of Plaintiff on their Counterclaim;
- (c) That all costs of this action be taxed against Defendants and that the Plaintiff also recover its costs, disbursements and attorneys' fees in connection with the defense of the Counterclaim; and
- (d) For such other and further relief as this Court deems just and proper.

Dated: New York, New York
July 31, 2008

HERRICK, FEINSTEIN LLP

By: 

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